ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 562 OF 2005

Mr.Balasaheb Ramchandra Jadhav ...Appellant.

Vs.

Sau. Lalatai Balasaheb Jadhav ...Respondent.

Mr. M.V.Limaye for appellant.

CORAM : ANOOP V. MOHTA,J.

DATED : 17th July, 2007

P.C.

1. Both the Courts after taking note of maintenance deed (Hayat Patra) dated 23/08/1984, executed by defendant No.2 (Appellant No.2) and material placed on record held that the plaintiff/ respondent herein proved her title to the suit land as described in the plaint and further the defendant/appellant herein dispossessed her unlawfully and therefore, granted decree of possession.

2. The learned counsel appearing for the appellant basically contended that there is no material to justify to accept the case of plaintiff about their marriage and in the result there is no question of grant of maintenance deed in question. After going

through the record, as well as the findings given by the Court below, there is nothing on record to support this submission as raised. There was no issue framed accordingly. There is no pleadings or disputes raised about the same. In view of this, such contention is impermissible to be raised in Second Appeal.

3. Both the Courts having come to the conclusion based on the maintenance deed in question, read with the evidence lead the judgment and order by the courts below is within the framework of law and the record. There is no perversity or any illegality as such. On the contrary, the reasonings given are correct. The plaintiff is entitled to retain the land which has been given based upon the maintenance deed in question which is based upon their valid marriage.

4. Resultantly, the Second Appeal is dismissed.

(ANOOP V. MOHTA, J.)